IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.6494 of 2004

Between:

M/s.Navya Builders, a prop. concern, rep.by its Prop. Smt.N.Navya W/o.N.Mallesh Yadav, R/o.H.NO.1-1-19, Brindavan Nagar Colony, Malkajgiri, Hyderabad.

...PETITIONER

AND

1. Govt. of A.P., rep.by its Secretary, Municipal Administration and Urban Development Department, Secretariat Buildings, Hyderabad.

2. Malkajgiri Municipality, rep.by its Commissioner, Malkajgiri, Ranga Reddy Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of Mandamus, declaring the Notice dt.13-10-2003 vide proceedings No. 34/1/2003 issued by the second respondent as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the second respondent not to take any coercive steps including demolition of the petitioner's property, namely all that property admeasuring approximately 120 sq.yds forming part of premises No.2-47, south-west corner, situated at Malkajgiri, Ranga Reddy District, together with the structures thereon and bounded on the North: remaining portion of the building; south: Neighbour's property; East: remaining portion of the building; West : road, which is covered by the sanctioned permit issued by the second respondent vide proceedings No.G2/83/98 dt.26/4/1998.

Counsel for the Petitioner: MR.P.VENUGOPAL

Counsel for the Respondent No.1: GP FOR MUNCIPAL ADMINISTRATION & URBAN DEVELOPMENT.

Counsel for the Respondent No.2: MR.R.TIMMA REDDY

The Court made the following:

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ORDER:

The petitioner assails the notice, dated 13.10.2003 issued by the second respondent under section 228(1) and 228(2) of the A.P.Municipalities Act, 1965 ('the Act' for brevity) read with section 42(1) and 43(1) of the A.P.Urban Areas (Development) Act, 1975 (Urban Act) whereby and whereunder Smt.C.Krishnabai and others were asked to remove the unauthorized construction of nine RCC column footings and submit explanation before the final orders are passed by the second respondent. This Court while admitting the Writ Petition directed *status quo* to be maintained. The matter is again listed at interlocutory stage for further orders and the matter is heard finally and being disposed of by this order.

The petitioner is M/s.Navya Builders which a proprietory concern represented by one Smt.Navya. She claims that she has purchased the property from one Smt.C.Krishnabai and others under registered sale deed dated 09.04.1998 and that Smt.C.Krishnabai, her vendor got the property under a gift deed from one Smt.A.Lakshmi Bai who is the original owner of the property. It is also the case of the petitioner that Smt.A.Lakshmi Bai and others obtained building permission vide permit No.G2/83/98 dated 26.04.1998 and therefore, the construction made by the petitioner cannot be said to be unauthorized.

Whether the permission granted in favour of Smt.C.Krishnabai and others on 26.04.1998 is valid and whether the sale deed in favour of the petitioner by Smt.C.Krishnabai is valid, are the questions which need not be gone into at this stage. Further, by impugned notice, dated 13.10.2003, Smt.C.Krishnabai and others were asked to submit explanation to the provisional order under Section 228(1) of the Act. If the petitioner succeeded Smt.C.Krishnabai and others, it is always open to the petitioner to approach the second respondent, Municipality and submit her explanation. Even before submitting explanation, the Writ Petition is filed, which cannot be entertained at this stage. It would be in the interest of the petitioner herself to file explanation within a period of two weeks from the date of receipt of a copy of this order. As and when such explanation is filed, the second respondent shall consider the same and pass appropriate order duly considering the validity of the permission allegedly granted in favour of the petitioner's vendors on 26.04.1998. Till the explanation is submitted, the second respondent shall not initiate any coercive steps and the petitioner is also directed not to make any further constructions.

The Writ Petition, with the above observations and directions, is disposed of.

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(V.V.S.RAO, J)

9th September 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, Government of A.P., Municipal Administration and Urban Development Department, Secretariat Buildings, Hyderabad.
2. The Commissioner, Malkajgiri Municipality, Malkajgiri, Ranga Reddy Dist.
3. Two CCs to G.P. for Municipal Administration, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.